

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ROBERT SPEED,

Petitioner,

10-cv-3333 (PKC)
04-cr-336 (PKC)

-against-

ORDER

UNITED STATES OF AMERICA,

Respondent.

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CASTEL, U.S.D.J.

The Court has denied the motion of petitioner Robert Speed to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255. Under 28 U.S.C. § 2253(c)(1)(B), the Court of Appeals may not take an appeal from a final order in a § 2255 habeas case unless a certificate of appealability is granted. Such certificates are appropriate where an applicant “has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). Because of the unsettled case law after United States v. Davis, 139 S. Ct. 2319 (2019) regarding interpreting general verdicts convicting defendants of 18 U.S.C. § 924(c) on the basis of more than one predicate crime, the Court finds that Speed has made such showing and accordingly grants the certificate.

SO ORDERED.


P. Kevin Castel
United States District Judge

Dated: New York, New York
October 29, 2020